

EXHIBIT G

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 48 of 53 PageID: 4862

ROBERT AGEL

Page 141

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil Action No. 97-cv-3496 (DRD) (MAS)

WALSH SECURITIES, INC., :
Plaintiff, :
vs. :
: VOLUME II
: DEPOSITION OF:
: ROBERT AGEL

7 CRISTO PROPERTY MANAGEMENT,
LTD., a/k/a G.J.L. LIMITED;
8 OAKWOOD PROPERTIES, INC.;
NATIONAL HOME FUNDING, INC.;
9 CAPITAL ASSETS PROPERTY
MANAGEMENT & INVESTMENT CO.,
INC.; CAPITAL ASSETS PROPERTY
MANAGEMENT, L.L.C.; WILLIAM
10 KANE; GARY GRIESER; ROBERT
SKOWRENSKI, II; RICHARD CALANNI;
RICHARD DIBENEDETTO; JAMES R.
11 BROWN; THOMAS BRODO; ROLAND
PIERSON; STANLEY YACKER, ESQ.;
MICHAEL ALFIERI, ESQ.; RICHARD
12 PEPSNY, ESQ.; ANTHONY M.
CICALESE, ESQ.; LAWRENCE CUZZI;
ANTHONY D'APOLITO; DAP CONSULTING,
13 INC.; COMMONWEALTH LAND TITLE
INSURANCE CO.; NATIONS TITLE
INSURANCE OF NEW YORK, INC.;
FIDELITY NATIONAL TITLE
14 INSURANCE CO. OF NEW YORK;
COASTAL TITLE AGENCY; DONNA
PEPSNY; WEICHERT REALTORS; and
15 VECCHIO REALTY, INC., D/B/A
MURPHY REALTY BETTER HOMES
16 And GARDENS
17
18
19

Defendants. :

22
23
24
25

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 49 of 53 PageID: 4863

ROBERT AGEL

1 TRANSCRIPT of the stenographic notes of 2 the proceedings in the above-entitled matter, as 3 taken by and before JANET BAILYN, a Certified 4 Shorthand Reporter and Notary Public of the State of 5 New Jersey, held at the office of MANNING, CALIENDO & 6 THOMSON, 36 West Main Street, Freehold, New Jersey, 7 on August 5, 2010, commencing at 10:25 in the 8 forenoon. 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 142	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 144

2 (Pages 142 - 145)

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 50 of 53 PageID: 4864

ROBERT AGEL

<p>1 ironically I happen to know this fellow that was the 2 seller and he had been arrested and put his 3 property -- it was a general recognizance so it's a 4 lien against all of your real estate. He -- we 5 needed that property released from the recognizance 6 in order to insure it. There were other judgments 7 against him, money suits where he had been sued and 8 we needed the property released from that judgment or 9 it would need to be paid off and discharged. Those 10 type of things.</p> <p>11 Q. Is this a situation where the closing 12 has occurred and there's some lien on the property 13 that has not been taken care of at the closing?</p> <p>14 A. The situation we're in right now?</p> <p>15 Q. No, no, what you just referred to.</p> <p>16 A. No. These are situations where they 17 probably -- not probably. Where they did clear them, 18 they did pay things off. They just didn't get us the 19 documentation.</p> <p>20 Q. Does that include some of the liens 21 we're talking about in this case?</p> <p>22 A. Yes, it should be, yes.</p> <p>23 Q. Now, the other thing, you had mentioned 24 about Banker's Trust and Cityscape. Can you tell us 25 in lay terms what you were talking about?</p>	<p>Page 254</p> <p>1 first lien on the property so that they could 2 continue on and foreclose the property, get it back 3 ultimately on the market.</p> <p>4 Q. Did that happen with a number of the 5 loans we're talking about in this case as far as you 6 know?</p> <p>7 A. Yes. It happened with quite a few. I 8 don't know how many. Just from one -- loans or 9 properties that I insured when they sold after this 10 happened.</p> <p>11 Q. Now, you might not know the answer to 12 this question but let me ask it: Cityscape and 13 Banker's Trust in those situations I assume would 14 have had a lawyer representing them in the mortgage 15 foreclosure. Is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. Do you know who hired that lawyer? And 18 what I mean by that is: Do you know whether either 19 Commonwealth or Fidelity or Nations hired a lawyer 20 for Banker's Trust or for Cityscape or whether they 21 hired their own lawyers and did it?</p> <p>22 A. I don't know.</p> <p>23 Q. Okay. Mechanically the closing -- do 24 you call it closing protection letter or closing 25 service letter?</p>
<p>1 A. Yeah, in those cases they were -- 2 Cityscape and Banker's Trust were -- I assumed that 3 they were lenders that bought these loans from Walsh 4 Securities.</p> <p>5 Q. And I will represent to you that there's 6 been some discovery in this case indicating that 7 those lenders did purchase some of these loans from 8 Walsh.</p> <p>9 A. Right.</p> <p>10 MR. MAGNANINI: Let me just clarify the 11 record. Cityscape was a whole loan purchased. They 12 purchased loans. Banker's Trust was a trustee for 13 loans that Walsh Securities securitized. So Walsh 14 issued I think about a billion five in five different 15 securities so they were a trustee and a purchaser.</p> <p>16 Q. So go ahead.</p> <p>17 A. So what would happen in those cases, and 18 in particular probably this one right here, Bustos on 19 138 Ridge, the deed and the mortgage into Bustos -- 20 the Bustos deed and then the Bustos mortgage were not 21 recorded. When the loans defaulted the lender 22 started foreclosure, discovered that the deed and 23 mortgage were not recovered and their lien had not 24 been properly perfected. So they made a motion to 25 the court to have a lien -- their lien imposed as a</p>	<p>Page 255</p> <p>1 A. Closing service letter.</p> <p>2 Q. Now, I'm going to take you back and 3 switch the time period. I'm going to take you back 4 to the time of these loans when your company was 5 dealing with it. What was it called then in your 6 lingo?</p> <p>7 A. Well, we would call it an AA letter, an 8 approved attorney letter. That was just our lingo 9 though. It became closing service letter sometime in 10 the late -- in the late '90s. Sometime around this 11 time.</p> <p>12 Q. So closing service letter?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Mechanically in your office with 15 respect to these loans, physically how did you get 16 the closing service letters? And what I'm asking is: 17 Did you print them off a computer? Did you print 18 them yourself? Were they sent to you by the title 19 insurance company?</p> <p>20 A. In the beginning they would come from 21 the title company. We would get a batch of them. 22 They were pre-numbered and we would -- the 23 old-fashioned way have to type the name of the 24 attorney and then all the pertinent information. 25 That didn't last very long. They took the control</p>

30 (Pages 254 - 257)

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 51 of 53 PageID: 4865

ROBERT AGEL

1 numbers away probably in less than a year, and they
2 were installed on our computer systems.

3 Q. Is that the case when we're talking
4 about the time period here?

5 A. Yes.

6 Q. And how would they get installed in your
7 computer system? Let me tell you what I'm driving at
8 just so you know. In some of the loans that -- in
9 some of the Commonwealth loans that Coastal was the
10 agent in this time period there are different
11 approved attorney forms. Some have one additional
12 paragraph and others don't, and I'm trying to figure
13 out how that would have occurred. All out of your
14 agency.

15 A. Probably we were exhausting a supply
16 that we already had. Or I would have to see them to
17 tell you whether they were preprinted or they were
18 installed in the computer. But if they were
19 installed in the computer, those would have been
20 forms that we got directly from either Commonwealth
21 or Fidelity.

22 Q. But can you help us -- assume as true
23 just for my question, just assume it is true that in
24 this time period there are different forms for the
25 Commonwealth letters.

Page 258

1 would you still use the old form?

2 A. We could have and it could have been by
3 mistake, that's possible.

4 Q. Let me call your attention to exhibit
5 Commonwealth 6(A) from the March -- sorry, May 27,
6 2010 deposition of a representative of Commonwealth
7 who was Donna Sullivan and it's Bates stamped WSWT
8 000505. It's a two-page document.

9 Can you tell whether that one was off
10 the computer or whether that was one of the --

11 A. This is off the computer definitely.

12 Q. And how would they get on your computer?

13 That is, how would this form get on your computer?
14 That is, did it go directly from a Commonwealth
15 computer to you or how did that work?

16 A. No. It would have been coming in
17 through our software -- we all use approved software
18 providers for the title industry and it would have
19 come from that provider. They all have agreements
20 with the underwriters as to the use and installation
21 of their forms.

22 Q. Again, even though I represent
23 Commonwealth this is not something I know. Does
24 Commonwealth hire somebody to give you software?

25 A. No.

Page 260

1 A. Right.

Page 259

1 Q. How does that work?

2 A. What they do is they have -- I guess
3 they would have -- my provider right now I'll use an
4 example. Title Support Software, TSS. They have I
5 guess licensing agreements with Commonwealth and all
6 the other companies to sell their -- not sell but to
7 install their forms. They have written a package, a
8 software package specific to title insurance. They
9 need those forms from the various underwriters in
10 order to install.

11 So what they do between Commonwealth and
12 TSS I don't know. All I know is that TSS and every
13 other provider I have had since we had computers
14 would come and install that package which includes
15 the closing service letter.

16 Q. Was TSS your service provider back at
17 the time --

18 A. No.

19 Q. -- you were involved with these loans?

20 A. No.

21 Q. Did you have a service provider at the
22 time you had these loans?

23 A. Yes.

24 Q. Did it operate essentially the way you
25 just described TSS's operation with you?

Page 261

11 Q. And I was trying to figure out how that
3 would happen.

4 MR. MAGNANINI: David, are you saying
5 different forms within Commonwealth forms, within
6 Commonwealth letters themselves?

7 Q. If we look at the Commonwealth in this
8 case -- and by Commonwealth, the ones you would have
9 issued letters under Commonwealth's name.

10 A. Right.

11 Q. There's different forms, and one of the
12 differences is one of the forms has an extra
13 paragraph that the others did not and that's -- I was
14 trying to see if you could help me with how that
15 could occur.

16 A. It could have happened. I need to see
17 those letters in order to give you a good answer, but
18 my guess is is that the ones that had the extra
19 paragraph or didn't, whichever, one of them -- one
20 was a form that was a preprinted form that we would
21 have to fill in information on it in the typewriter.
22 The other one was in the computer. So when -- we
23 would exhaust all of our forms, the preprinted forms
24 that they gave us.

25 Q. Even if they had issued a new form;

31 (Pages 258 - 261)

VERITEXT REPORTING COMPANY
www.veritext.com

212-267-6868

516-608-2400

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 52 of 53 PageID: 4866

ROBERT AGEL

<p style="text-align: right;">Page 262</p> <p>1 A. Yes.</p> <p>2 Q. And do you know the mechanics of how TSS 3 would get the Commonwealth documents?</p> <p>4 A. No.</p> <p>5 Q. I have one more subject for you, and 6 again I'm going to paraphrase just to get you back 7 there. You said -- and this is my use of the term. 8 You said if there was a break in the title you would 9 not insure the title. And I realize "break in the 10 title" may not be the right word but you know what 11 I'm referring to?</p> <p>12 A. Yes.</p> <p>13 Q. Could you explain that to us in lay 14 terms?</p> <p>15 A. That would be where there would be the 16 case here where the deed into G.J.L., the seller, was 17 not recorded, something like that. Just using it in 18 these terms, it's dealing where they ended up 19 closing -- selling properties before they bought 20 them. That would be -- it was a good term, a break 21 in the chain of title.</p> <p>22 Q. And in that situation, if I understand 23 your testimony, you would have been paid but you 24 would have transmitted that to the underwriter 25 anyway?</p>	<p style="text-align: right;">Page 264</p> <p>1 Q. When you sent the policy to the lawyer, 2 would the lawyer be able to take action that would 3 end up with that exception being removed?</p> <p>4 A. Yes.</p> <p>5 Q. How would the lawyer do that?</p> <p>6 A. You would record the deed in this case. 7 That would be the proper -- record the deed and then 8 possibly get a corrective deed from G.J.L. into 9 Bustos and then record or rerecord the deed and 10 rerecord the mortgage so that there would be proper 11 sequence.</p> <p>12 Q. Full circle from where I started. After 13 these frauds became public when you talked about 14 Cityscape and you talked about Banker's Trust, do you 15 know whether some unrecorded earlier deeds were 16 recorded during the foreclosure process? That is, 17 somebody chased them down and got them recorded?</p> <p>18 A. I do believe so, yes.</p> <p>19 Q. To solve that problem. Right?</p> <p>20 A. Yes.</p> <p>21 Q. Thank you. I don't have any further 22 questions.</p> <p>23 MS. ELGART: I have no questions.</p> <p>24 REDIRECT EXAMINATION BY MR. MAGNANINI:</p> <p>25 Q. Just to follow up then. What happened</p>
<p style="text-align: right;">Page 263</p> <p>1 A. Yes.</p> <p>2 Q. And the reason you would have 3 transmitted it to the underwriter anyway was the 4 assumption based on your many years in the industry 5 that that problem would be cured and then ultimately 6 a policy would be issued?</p> <p>7 A. Yes. It would either be cured or I 8 would put it in as an exception.</p> <p>9 Q. Right. And to the extent they were not 10 cured in this case, was that because this fraud 11 became public and everything blew up?</p> <p>12 A. Correct.</p> <p>13 Q. When you say you would have put it in 14 with an exception, what do you mean by that?</p> <p>15 A. In this case -- in G.J.L. we would have 16 put into the owner's policy, possibly the loan 17 policy, I don't know if we would have put it in the 18 loan because of the closing service letter, but we 19 would have put: Subject to the outstanding interest 20 of G.J.L. Limited and said that because of a lack of 21 a deed from G.J.L. into Bustos.</p> <p>22 Q. And if -- withdrawn. When you sent that 23 to your client -- here would your client be the 24 lawyer?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 265</p> <p>1 when the form of the closing service letter changed, 2 the title company changed the form? The title 3 companies would provide it to your software provider?</p> <p>4 A. Yes.</p> <p>5 Q. And then were you instructed -- was 6 Coastal Title instructed to destroy old versions, 7 delete old versions?</p> <p>8 A. Yeah. You would either -- we are 9 getting again above my pay grade but it's -- we would 10 get a disk or a -- today we download them over the 11 Internet, which is still something I don't know 12 about, but we would then put the disk in and it would 13 do whatever it did. It would modify the forms or it 14 would delete, whatever it did, I don't know exactly 15 what it did.</p> <p>16 Q. The reason I was following up, Mr. Agel, 17 is you said you thought you could have issued some 18 closing service letters in a different format by 19 mistake.</p> <p>20 A. Yes.</p> <p>21 Q. And I would have thought that if the 22 title company had given you new ones you would have 23 just discarded the old ones and gone from there.</p> <p>24 A. No. They made sure -- especially if you 25 take a look at this one it has an audit number on it.</p>

32 (Pages 262 - 265)

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

Case 2:97-cv-03496-DRD-MAS Document 419-2 Filed 09/01/10 Page 53 of 53 PageID: 4867

ROBERT AGEL

Page 266		Page 268
1	Q. 6(A)?	1 (The deposition is concluded at 3:42
2	A. Yes.	2 p.m.)
3	Q. Where is the audit number?	3
4	A. Top right. We had to account for this.	4
5	Q. And is this one of the examples that --	5
6	with the audit number that came preprinted?	6
7	A. No, this is not preprinted.	7 ROBERT AGEL
8	Q. So your computer would generate a	Subscribed and sworn to before me
9	different audit number for each CSL?	this _____ day of _____, 2010.
10	A. Yes.	9
11	Q. And that way the tight company knew what	10 Notary Public
12	letters --	11
13	A. That's right.	12
14	Q. Okay. And one last question as a follow	13
15	up to what Mr. Kott said. I think you had said you	14
16	would -- you started answering his second to last	15
17	question that said: We would not include it in the	16
18	loan because of the CSL?	17
19	A. I think I said we may not.	18
20	Q. What did you mean by that in lay	19
21	people's terms?	20
22	A. If it was an exception that was related	21
23	to the attorney's work but the attorney did something	22
24	wrong, in this case record the deed, we may not be --	23
25	I would try to put it in the mortgage policy. I	24
		25
Page 267		Page 269
1	would put it in and if asked to omit it, we would	1 CERTIFICATE.
2	have to get clearance -- I would have to get	2
3	clearance from the underwriter.	3 I, JANET BAILYN, a Notary Public and
4	Q. Because it concerned a mistake by the	4 Certified Court Reporter of the State of New Jersey,
5	closing attorney?	5 do hereby certify that prior to the commencement of
6	A. Yes.	6 the examination ROBERT AGEL was duly sworn by me to
7	Q. Okay. I think that's all I have.	7 testify the truth, the whole truth and nothing but
8	RE CROSS EXAMINATION BY MR. KOTT:	8 the truth.
9	Q. Are you an attorney?	9 I DO FURTHER CERTIFY that the foregoing
10	A. No.	10 is a true and accurate transcript of the testimony as
11	Q. Are you familiar with all of the New	11 taken stenographically by and before me at the time,
12	Jersey cases that interpret closing service letters?	12 place and on the date hereinbefore set forth.
13	A. No.	13 I DO FURTHER CERTIFY that I am neither a
14	Q. So when you say -- when you said, and I	14 relative nor employee nor attorney nor counsel of any
15	am going to paraphrase, if it was a mistake of an	15 of the parties to this action, and that I am neither
16	attorney then it would be under the closing service	16 a relative nor employee of such attorney or counsel,
17	letter, do you know whether all mistakes of attorneys	17 and that I am not financially interested in the
18	are covered by the closing service letter or just	18 action.
19	certain types of mistakes?	19
20	A. I don't know.	20
21	Q. As to what the closing service letter	Notary Public of the State of New Jersey
22	actually covers, that you would leave to judges and	My commission expires February 3, 2013
23	lawyers?	License No. XI00970
24	A. Yes.	22 Date: August 9, 2010
25	Q. Thank you. I have no further questions.	23
		24
		25

33 (Pages 266 - 269)

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400